

**UNITED STATES DISTRICT COURT
DISTRICT OF CONNECTICUT**

ENRICO A. MOTTOLA,	:	
	:	
Plaintiff,	:	NO. 3:03CV1698(MRK)
	:	
v.	:	
	:	
PADRAIC T. DUFFY,	:	
	:	
Defendant.	:	

RULING

This case arises from a motor vehicle accident on October 27, 2001 between Enrico Mottola and Padraic Duffy. At trial, Mr. Mottola claimed numerous alleged permanent injuries as a result of that accident, and in closing arguments asked the jury to award him nearly \$3 million in past, future and punitive damages. Mr. Duffy admitted his negligence but disputed Mr. Mottola's claim that the accident had caused his numerous alleged injuries and also contested Mr. Mottola's request for punitive damages, which was based on Mr. Duffy's intoxication at the time of the accident. In particular, Mr. Duffy claimed that Mr. Mottola's injuries were the result of his pre-existing diabetic condition, or that they were fabricated or, at the very least, greatly exaggerated. After deliberating, the jury essentially agreed with Mr. Duffy and awarded Mr. Mottola past economic damages of \$796.00 and past non-economic damages of \$1,000.00, for a total compensatory damage award of \$1,796.00. The jury then doubled the compensatory award under Conn. Gen. Stat. § 14-295, for a total award of \$3,592.00, a mere fraction of the damages sought by Mr. Mottola.

Mr. Mottola now moves for a new trial on the ground that the jury's decision "is seriously

erroneous and amounts to a miscarriage of justice." Motion for New Trial [doc. #69]. The sole basis asserted in the two-page brief submitted in support of Mr. Mottola's motion is that it was "undisputed" that plaintiff lost seventeen weeks of work as a result of the accident, yet the jury "awarded the plaintiff a mere \$1,700 for medical expenses and pain and suffering damages." Mem. in Support of Mot. for New Trial [doc. #70] at 1. Mr. Duffy has opposed the request for a new trial. Objection to Plaintiff's Mot. for New Trial [doc. #73]. For the reasons stated below, the Court DENIES Plaintiff's Motion for New Trial [doc. #69].

The Court has had occasion recently to set forth the standard for granting a new trial and will not repeat that discussion here. *See Svege v. Mercedes-Benz Credit Corp.*, No. 3:01CV1771(MRK), 2004 WL 2377485, at *3 (D. Conn. Sept. 28, 2004). Suffice to say that the Court has applied that standard in this case. Also, the Court will not repeat here all of the facts relating to the case but will instead focus on the sole asserted basis for Plaintiff's motion – his claim that the jury's refusal to award him damages for missing seventeen weeks of work represents a serious miscarriage of justice.

The evidence at trial was more than adequate to support the jury's verdict. In particular, the credibility of both Mr. Mottola and his sole medical expert, Dr. Scott Haig, from Scarsdale, New York, was placed directly at issue during the trial. The cross-examination of these witnesses raised serious doubts about their credibility. It is clear from the verdict that the jury simply did not believe either of them. And frankly, having observed their demeanor on the witness stand and listened to their testimony, the Court fully agrees with the jury's assessment of their testimony.

Mr. Mottola's credibility was undermined in ways too numerous to list here. For

example, at trial Mr. Mottola testified that when he went to the emergency room he was bleeding profusely from his head as a result of the accident and that his face and chest were completely covered in blood. However, at trial, he had great difficulty locating the site of this alleged head injury and he admitted that he was discharged from the hospital without even receiving so much as a Band-aid. Also, the emergency room record does not note that Mr. Mottola was bleeding or that he had any blood on his face or clothing. *See* Pl.'s Exhibit 1. Nor does the police report indicate any blood on Mr. Mottola. *See* Pl.'s Exhibit 14. The jury was certainly more than justified in deciding that Mr. Mottola had simply concocted this story.

Mr. Mottola also admitted that he was claiming damages for injuries to his knee, but at his deposition, he testified that his knee was not injured as a result of the accident. He also claimed damages for injuries to his back, but physician records in the record stated that Mr. Mottola suffered from a pre-existing back injury – a pre-existing injury that Mr. Mottola denied on the witness stand.

Further, in this litigation Mr. Mottola claimed injuries to his right foot as a result of the accident. However, when he was examined at the emergency room he did not complain about any injuries to his foot, and no such injuries are noted. On the Monday following the accident, Mr. Mottola went to his long-time physician, Dr. Taddeo, complaining about pain in his foot. Notably, although he later claimed to have been in excruciating pain as a result of his foot injury, he admitted that he never asked Dr. Taddeo for any pain medication, she never gave him any, and he never took any, not even an aspirin. Dr. Taddeo sent Mr. Mottola to a local hospital for x-rays, and the radiologist's report on those x-rays stated that Mr. Mottola had only a "tiny" fracture in his foot, which the radiologist expressly attributed to his diabetic condition, not to the auto

accident. *See* Pl.'s Exhibit 7.

Dr. Taddeo also recommended that Mr. Mottola visit an orthopedic specialist. However, Mr. Mottola did not visit the orthopedic specialist recommended by Dr. Taddeo but instead chose to visit Dr. Haig. Dr. Haig prescribed a boot cast for Mr. Mottola to allegedly ease the pain in his foot, but there was conflicting testimony about how long Mr. Mottola even used the boot. Dr. Haig also testified at trial that he disagreed with the radiologist's conclusion that Mr. Mottola's fracture was the result of his diabetic condition. However, there were numerous flaws in Dr. Haig's testimony that more than justified the jury disbelieving him. At trial Dr. Haig severely undermined his credibility by having no difficulty attributing every pain that Mr. Mottola had ever complained of to the accident – even though many of Mr. Mottola's complaints came many months after the accident and their connection to the accident seemed tenuous at best. Also, Dr. Haig's notes showed multiple and sometimes conflicting entries, and he did not produce any x-rays to back up his key assertion that the fracture to Mr. Mottola's foot was more than "tiny" and was not attributable to his diabetic condition, as the radiologist had concluded.

In short, the jury concluded that Mr. Mottola and his expert had greatly over-reached when it came to both causation and damages, and in the Court's view, the jury had more than adequate bases for reaching that conclusion. The jury's economic damage award shows that it compensated Mr. Mottola for the expenses attributable to his emergency room visit on the evening of the accident and the follow-up visit to Dr. Taddeo immediately following the accident. The jury also awarded him \$1,000 for the non-economic damages he suffered as a result of being in the accident. As to all other elements of Mr. Mottola's alleged damages – including the seventeen weeks of work he claimed he had lost as a result of the pain in his foot –

the jury concluded that they were not caused by the accident but were either invented or were the result of Mr. Mottola's diabetes. There is no basis for this Court to set aside that judgment, as it is so heavily founded upon the jury's credibility determinations.

Because the jury did not reach a seriously erroneous result and its verdict does not represent a miscarriage of justice, the Court will not grant Mr. Mottola a new trial. Accordingly, the Motion for New Trial [doc. #69] is DENIED.

IT IS SO ORDERED.

/s/ Mark R. Kravitz
United States District Judge

Dated at New Haven, Connecticut: May 10, 2005.